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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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STEPHEN NUCCIO,

Plaintiff,

- against -

7:13-CV-1556 (MAD) (TWD)

RULE 5.1 NOTICE

NICOLE DUVÉ, in her official capacity as District
Attorney of the County of Saint Lawrence, New York

Defendant.

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TO: Deanna R. Nelson, Esq.
NYS Attorney General's Office
317 Washington Street
Watertown, NY 13601-3744

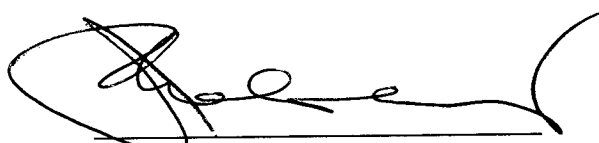
COUNSEL:

To the extent required, Plaintiff hereby gives notice as per Rule 5.1 of the Federal Rules of Civil Procedure as follows:

1. Plaintiff, in the Complaint herein, *q.v.*, draws into question the constitutionality of a statute or statutes of New York, namely, Penal Law §§ 265.00-265.02, as applied in the recent prosecution of Plaintiff for the simple possession of nunchaku or "chuka sticks" within his Home.

2. Except to the extent that the District Attorney of the County of Saint Lawrence is or may be an officer of the State of New York, *see Nassau Spielman Motor Sales Co. v. Dodge*, 295 U.S. 89, 92-93 (1935) (*but see Fisher v. State*, 23 Misc. 2d 935, 203 N.Y.S.2d 363 (New York Court of Claims 1959) (*contra*)), neither a State nor any agency, officer or employee thereof is a party to this action.

Dated: January 22, 2014
Port Washington, New York



JAMES M. MALONEY (514252)
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